

MINUTES
U.S. Bankruptcy Court, Northern District of California
Bench-Bar Liaison Committee Meeting
San Francisco
January 15, 2002

Members Present: Chief Judge Edward D. Jellen, Judge Thomas E. Carlson, Judge Alan Jaroslovsky, Judge Dennis Montali, Judge Marilyn Morgan, Judge Arthur S. Weissbrodt, Donald H. Cram, Esq., Devin Derham-Burk, Esq., Frederick D. Holden, Jr., Esq., David I. Katzen, Esq., Charles Logan, Esq., Eric Nyberg, Esq., Mr. Mohamed Poonja, Reidun Stromsheim, Esq., Edward Tredinnick, Esq., Bennett Young, Esq.

Members Excused: Judge James R. Grube, Judge Randall J. Newsome, Judge Leslie Tchaikovsky

Members Absent: Michael Fallon, Esq., Alfred Moore, Esq.

Present Ex Officio: Chief Clerk Gloria Franklin, Shawn Christianson, Esq., Michael Cooper, Esq.

New Chief Clerk

The meeting was called to order by the Chair, and all heartily congratulated Gloria Franklin on her appointment as Chief Clerk of the Court.

Statistical Trends

Chief Judge Jellen provided filing trends as of December 31, 2001. Nationally, filings were up overall. In the Northern District of California, Chapter 11 petitions were up significantly, but filings were down overall, due to a very large drop in the number of Chapter 13 petitions. Adversary proceedings and motions for relief from the automatic stay were also down here. These figures will impact court funding.

Northern District Conference

Michael Cooper is a lawyer representative on the Ninth Circuit Committee and has been charged by that committee with organizing the bankruptcy breakout session at the Northern District conference April 19-21, at the Chaminade Resort in Soquel. He led a discussion of alternate formats and several possible topics, including the impact of revised UCC Article 9 on bankruptcy cases, conflicts of interest in large Chapter 11's and the growing request by professionals for indemnity in bankruptcy cases. (After the meeting, Mike announced that the bankruptcy breakout session will feature Chuck Hansen, of Wendel, Rosen, Black & Dean, on real property issues in bankruptcy cases.)

Mohamed Poonja volunteered to organize the Friday night restaurant dinner.

Electronic Filing Project

Gloria Franklin provided an update on the Clerk's office's implementation of electronic filing. It is hoped that filings will be essentially all online starting November of this year. Training for law firms is being prepared. Filing will be Windows-based and require Acrobat and a scanner. Few decisions are yet final. Developments will be updated on the Court's website.

Charles Logan confirmed that he knows of a company that is willing to donate a backup computer server.

Compensation Guidelines

The Judges advised the lawyers and trustees that dollar-threshold adjustments or other changes to current guidelines will be entertained at their March 19 meeting, if recommended by the lawyer and trustee members.

Form of Order Approving Sale of Real Property Free and Clear

Ben Young led the discussion of this form, which was proposed by title companies and the State Bar Insolvency Committee. It is in use in the Central District of California. It is not being proposed as an official form.

The Judges noted that (1) it may not comply with B.R. 9021, (2) it could lead to title companies being even more rigid concerning what is acceptable to them, (3) could encourage form applications and an expectation of inclusion of non-germane findings.

Judge Newsome's Compendium

Fred Holden described that the usefulness of this compendium is that it provides quick access to holdings and cites for well known cases. Therefore, its usefulness might be diminished if publication were dependent on its being converted to a polished product. Fred will discuss possible publication venues further with Judge Newsome.

Questionnaire to Bar on Issues of Interest to Judges

In the discussion of this possible initiative, it was concluded that it was the duty of the lawyers and trustees on the Committee to facilitate bringing issues to the Judges. One method is to ask leaders of all of the local bar organizations to make announcements, at their meetings, of the Committee's receptiveness to input.

Tentative Rulings on Court's Website

There was a thorough and spirited debate of the virtues and the limitations on the usefulness of tentative rulings, and the difficulty and further limitations that would be imposed if those rulings needed to be on the Court's website. The practices in other bankruptcy courts, state courts and district courts were considered.

A consensus emerged that guidance, by the judge, before the commencement of oral argument of a motion, of what issues merited the advocate's focus, was useful to both the court and the advocate. Written tentative rulings are only one way that can be accomplished and in many circumstances are not an efficient method.

The meeting was adjourned at 2:00 p.m.

Frederick D. Holden, Jr.
Chair